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LETTER TRANSMITTING DRAFT CONSENT ORDER MM-005-00 ABL ROCKET CENTER WV  
11/9/2000  
WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION



Office of Waste Management  
1356 Hansford Street  
Charleston, West Virginia 25301-1401  
Telephone Number: (304) 558-2505  
Fax Number: (304) 558-0256



## West Virginia Division of Environmental Protection

Cecil H. Underwood  
Governor

Michael C. Castle  
Director

Post-it* Fax Note	7671	Date 11/16	# of pages
To D. O'Connor		From H. W.	
Co./Dept.		Co. ABL	
Phone #	4905	Phone #	
Fax # 757 372-4727		Fax # (see last page)	

November 9, 2000

Mr. Alex Priskos, President  
Allegany Ballistics Laboratory  
210 State Route 956  
Rocket Center, WV 26726-3548

Certified Mail  
Return Receipt Requested

Dear Mr. Priskos:

Enclosed is Draft Consent Order MM-005-00 proposed by the Chief of the Office of Waste Management and the Chief of the Office of Water Resources.

Within ten days of certified receipt of this Draft Consent Order, contact me at (304) 558-2505 to arrange a meeting to discuss the terms and signing of this Order.

Sincerely,

Michael I. Stratton,  
Enforcement Unit Leader

cc: H. Michael Dorsey, CAER Asst. Chief  
EPA Region III  
David Watkins, OWR  
John Hando, OWM  
Don Criss, OWR

"To use all available resources to protect and restore West Virginia's  
environment in concert with the needs of present and future generations."



West Virginia  
Division of  
Environmental Protection



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## West Virginia Division of Environmental Protection

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Cecil H. Underwood  
Governor

Michael C. Castle  
Director

### ORDER

ISSUED UNDER THE HAZARDOUS WASTE MANAGEMENT ACT  
CHAPTER 22, ARTICLE 18 OF THE WEST VIRGINIA CODE

### AND

THE GROUNDWATER PROTECTION ACT  
CHAPTER 22, ARTICLE 12 OF THE WEST VIRGINIA CODE

ORDER NUMBER MM-005-00

TO: Mr. Alex Priskos, President  
Alliant Missile Products Company, LLC  
Allegany Ballistics Laboratory  
210 State Route 956  
Rocket Center, WV 26726-3548

EPA ID# WVO170023691

ATTENTION: Mr. Alex Priskos, President

This Order is issued by the Director of the West Virginia Division of Environmental Protection through his authorized representatives, the Chief of the Office of Waste Management and the Chief of the Office of Water Resources (hereinafter, "Chief" or "Chiefs"), under the authority of the West Virginia Code, Chapter 22, Article 18, Section 15 and Article 12, Section 5(e) to Alliant Missile Products Company, LLC (hereinafter, "AMPC"). The Director has adopted and incorporated by reference the applicable Sections of 40 CFR, Parts 260 through 279 into the West Virginia Hazardous Waste Management Regulations.

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### **BASIS FOR ORDER**

Alliant Missile Products Company LLC, also referred to as Alliant Techsystems or ATK, operates a portion of Allegany Ballistics Laboratory (ABL) for the United States Department of the Navy. ABL is divided into two plants: Plant 1 is owned by the U.S. Navy and operated by AMPC, and Plant 2 is owned and operated by AMPC. The facility is located at State Route 9, along the Potomac River, in Mineral County, West Virginia. ABL is a research and production facility for the development and manufacture of various military related hardware. Though the facility has produced and researched a variety of products in the past, it's predominant activity is the production and testing of rocket motors.

Activities at ABL are regulated by several permits, including one from the Office of Air Quality (OAQ), the Hazardous Waste Permitting Section (HWP), and the National Pollution Discharge Elimination System (NPDES). The Burning Ground (also known as Site 7) is the subject of the OAQ permit, and is under RCRA interim Status for Subpart X. HWP also permits a hazardous waste storage pad. There are several outfalls regulated by NPDES.

On January 12, 2000 a multi-media inspection of Plant 1 was conducted by representatives of the Office of Environmental Enforcement, the Office of Waste Management, the Office of Water Resources, and the Office of Environmental Enforcement to determine AMPC's compliance with the environmental laws of the State of West Virginia. Michael Stratton, Office of Waste Management's Administrative Enforcement Unit manager coordinated the multi-media inspection. Inspection Reports and Notices of Violations resulting from this inspection were transmitted to AMPC's General Plant Manager, Alex Priskos, collectively under a cover letter dated April 12, 2000.

On May 12, 2000, AMPC, under ATK letterhead, responded to the April 12, 2000 letter and the attached reports and Notices of Violation. The letter noted several actions taken since the Multi-media inspection that AMPC believes significantly mitigates the issues.

On August 17, 2000, the Office of Water Resources accepted the proposed *Work Plan for Surveying and Sampling of Septic Tanks at the Allegany Ballistics Laboratory Superfund Site, Rocket Center, West Virginia* submitted by the Naval Facilities Command.

Of the four program areas inspected, only two will be addressed in this Order. The Office of Air Quality did not identify any violations during the inspection. The Office of Environmental Enforcement identified violations, but believed a more complete inspection was warranted. These violations will be addressed at a later date by the Office of Environmental Enforcement. Only the violations noted by the Office of Waste Management and the Office of Water Resources will be addressed in this Order.

The Office of Water Resources was represented by geologists Don Criss and R. K. Shaver. As a result of their inspection and in support of this order, the Chief hereby finds the following:

1. AMPC did not perform an inventory and assessment of the facility's Class V Underground Injection Wells, in violation of 47 CSR 13.12.2a.1,2,3 and 4.
2. AMPC did not have an Underground Injection Well permit for all septic systems, in violation of 47 CSR 13.1.a.
3. AMPC has performed improper abandonment of Class V Underground Injection Control Wells, in violation of 47 CSR 13.1.b.

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Violations of the Underground Injection Control rules, 47 CSR 13, are also a *de facto* violation of the Groundwater Protection Act as authorized in Chapter 22, Article 12, Section 5(m).

The Office of Waste Management was represented by Inspectors John C. Hando and Stan Moskal. As a result of their inspection and in support of this order, the Chief hereby finds the following:

- 10K
1. AMPC did not place its used oil in a proper container, in violation of 40 CFR 279.22(a).
  2. AMPC did not maintain copies of all analytical results at its facility as required by Permit condition I-K-2-iii and 40 CFR 264.73 and 262.11. This violation is in reference to analytical results from the treatment of groundwater from the burning ground.
  3. AMPC has not performed a waste analysis of all waste streams on an annual basis, as required by Permit Condition II-B-2 and 40 CFR 264.13.

#### REQUIREMENTS OF ORDER

Now, therefore, in accordance with Chapter 22, Article 18, Section 15 and Article 12, Section 10 of the Code, it is hereby agreed between the parties and ORDERED by the Chiefs as follows:

Regarding violations cited by the Office of Water Resources:

1. AMPC shall complete the inventory and assessment of all Class V Injection Wells at ABL Plant 1 and submit a report to the Office of Water Resources no later than December 1, 2000. If the report is prepared by, or under the guidance of, the United States Navy, and the report is accepted by the Chief or her representatives, it shall be deemed that AMPC has satisfied this requirement.
2. For those septic systems, if any, that will remain in service and meet the definition of an Underground Injection Control Well, as identified in the report required under REQUIREMENTS OF ORDER #1, AMPC shall apply to the Office of Water Resources for an UIC Well Permit no later than January 1, 2001. If the permit application(s) is submitted by the United States Navy on or before the deadline, it shall be deemed that AMPC has satisfied this requirement.
3. Within thirty days of submission of the report required under REQUIREMENTS OF ORDER #1, AMPC shall propose a plan, including a timetable for implementation, for proper closure of all UIC wells for which a permit application will not be submitted to OWR. Upon approval by the Chief or her representatives, the plan and associated timetable for implementation shall be incorporated into this Order. If the closure is performed by the United States Navy, within the required deadlines and to the satisfaction of the Chief, it shall be deemed that AMPC has satisfied this requirement.
4. Within thirty days of the effective date of this Order, AMPC agrees to pay to the Office of Water Resources, for deposit in the Groundwater Remediation Fund, an administrative settlement of \$16,250.00 (sixteen thousand, two hundred, fifty dollars) to resolve issues pertaining to the alleged violations of the Groundwater Protection Act.

Regarding violations cited by the Office of Waste Management:

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1. In the May 12<sup>th</sup> response to the notice of violations, AMPC states that contractors are required to read and sign a 'safety and environmental manual' outlining the requirements to perform work in an environmentally-sound manner. The January 12<sup>th</sup> inspection indicates this may not be sufficient to prevent violations of environmental laws by contractors. Therefore, within thirty days of the effective date of this Order, AMPC shall submit to the Chief, for his approval, modification, or rejection, a proposal for an additional or replacement procedure to insure contractors comply with environmental laws. Should the Chief require modifications or reject the proposed procedure, AMPC shall have two weeks from the date of AMPC's receipt of notification from the Chief to submit a revised plan.
  2. In the May 12<sup>th</sup> response to the notice of violations, AMPC asserts the analytical results were maintained on site. Yet both the inspectors and the Multi-media Inspection Coordinator were present when the operating staff stated the results were not on site. Therefore, within thirty days of the effective date of this Order, AMPC shall submit to the Chief documentation describing the steps that will be taken to insure treatment plant operators are aware of the location of the analytical results, and a schedule for implementing this requirement.
  3. In the May 12<sup>th</sup> response to the notice of violations, AMPC asserts, "Condition II-B-2 is a QA/QC requirement to verify that the analysis that are performed meet the requirements of SW-846. AMPC does not interpret this condition to require annual waste analysis of all waste streams..." In fact, requirement II-B-1 of the permit states, "The permittee shall follow the procedures as required...and as described in their Waste Analysis plan, Attachment 1." The Waste Analysis Plan, C-2d. Frequency of Analysis states, "Sampling and analysis of each hazardous waste will be performed a minimum of annually..." Since the analysis has not been performed annually, the QA/QC requirement has not been performed in accordance with the permit. AMPC provided the analysis for the waste streams sampled on February 3<sup>rd</sup> and 4<sup>th</sup>, 2000 in the May 12<sup>th</sup> response. Hereafter, AMPC shall perform this analysis on an annual basis during the month of February.
  4. Within thirty days of the effective date of this Order, AMPC agrees to pay to the Office of Waste Management, for deposit in the Hazardous Waste Management Fund, an administrative settlement of \$33,300.00 (thirty-three thousand, three hundred dollars) to resolve issues pertaining to the alleged violations of their permit and the Hazardous Waste Management Act.

#### GENERAL PROVISIONS

1. In the event that one or more of the above required actions are not completed satisfactorily, AMPC shall be required to pay a stipulated penalty of \$1,000.00 (one thousand dollars) to the appropriate Fund for each day that the action remains incomplete. If the Chief is notified, in writing, that any action is still not completed after forty-five days, AMPC shall pay a stipulated penalty of \$3,000.00 (three thousand dollars) for each day, until such time as the action is completed. The Chief shall not unreasonably withhold approval of actions performed by AMPC.

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2. If any event occurs which causes delay in the achievement of the requirements of this Order, AMPC shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Within three working days after AMPC becomes aware of such a delay, it shall notify the Chief(s) orally and shall, within ten working days of oral notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which AMPC intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of AMPC (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances.
3. A force majeure amendment granted by the Chief shall be considered a binding extension of this Order and of the Requirements herein. The Chief shall not unreasonably withhold approval of those requirements completed by AMPC.
4. The Chiefs expressly reserve all rights and defenses which they may have pursuant to any legal authority as well as a right to raise, as a basis for supporting such legal authority or defenses, facts other than those enumerated in the Basis for Order.
5. AMPC hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 18, Section 20 and Chapter 22, Article 12, Section 11 of the Code. Under this Order, AMPC agrees to undertake all actions required by the terms and conditions of this Order and consents to and will not contest the Chiefs' jurisdiction regarding this Order. However, AMPC does not admit to any factual or legal determination made by the Chiefs in this Order and reserves all rights and defenses available regarding liability and responsibility in any proceedings regarding the facility other than proceedings, either administrative or civil, to enforce this Order.

November 27, 2000  
Effective Date

Alex Priskos, President  
Alliant Missile Products Company, LLC

Allyn G. Turner  
Allyn G. Turner, Chief  
Office of Water Resources

B. F. Smith  
B. F. Smith, Chief  
Office of Waste Management

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**GROUNDWATER PROTECTION ACT  
CALCULATION OF CIVIL ADMINISTRATIVE PENALTY ASSESSMENT**

<b>Violation</b>	<b>Seriousness</b>	<b>Negligence/ Good Faith Multiplier</b>	<b>Subtotal</b>	<b>History of Noncompliance</b>	<b>TOTAL</b>
Failure to perform inventory and assessment of the Class V UIC Wells  47 CSR 13.12.2a. 1,2,3 and 4	\$3,500.00	2	\$7,000.00	\$0	\$7,000.00
Failure to permit septic systems  47 CSR 13.1.a.	\$1,125.00	2	\$2,250.00	\$0	\$2,250.00
Improper abandonment of Class V UIC Wells  47 CSR 13.1.b.	\$3,500.00	2	\$7,000.00	\$0	\$7,000.00
<b>Total Amount Due and Payable to the Groundwater Remediation Fund:</b>					<b>\$16,250.00</b>



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### RCRA ADMINISTRATIVE SETTLEMENT CALCULATION MATRIX

Each of the factors, Potential for Harm and Extent of Deviation from the requirement, forms one of the axes of the administrative settlement calculation matrix. The matrix has nine cells, each cell contains an administrative settlement range. The specific cell is chosen after determining which category (major, moderate, or minor) is appropriate for the Potential for Harm factor, and which category is appropriate for the Extent of Deviation factor.

The lowest cell (minor Potential for Harm, minor Extent of Deviation) contains a maximum administrative settlement of \$499. The highest cell (major Potential for Harm, major Extent of Deviation) is limited by the maximum statutory administrative settlement allowance of \$25,000 per day for each violation. The complete matrix is illustrated below. The administrative settlement amounts are based on EPA Guidelines.

		EXTENT OF DEVIATION		
		MAJOR	MODERATE	MINOR
POTENTIAL FOR HARM	MAJOR	\$25,000 TO \$20,000	\$19,999 TO \$15,000	\$14,999 TO \$11,000
	MODERATE	\$10,999 TO \$8,000	\$7,999 TO \$5,000	\$4,999 TO \$3,000
	MINOR	\$2,999 TO \$1,500	\$1,499 TO \$500	\$499 TO \$100

### VIOLATIONS SUMMARY

Violation	Deviation	Potential	Amount
1. Oil not placed in proper container 40 CFR 279.22(a)	Major	Moderate	\$10,000.00
2. Analytical results not maintained at facility Permit Condition I-K-2-iii 40 CFR 264.73 and 262.11	Minor	Minor	\$ 300.00
3. Failure to perform waste analysis on an annual basis Permit Condition II-B-2 (reference Condition II-B-1) 40 CFR 264.13	Major	Major	\$23,000.00
<b>Total Amount Due and Payable to the Hazardous Waste Management Fund:</b>			<b>\$33,300.00</b>

## ABL Multi-media Inspection Response

May 12, 2000

Office of Waste Management Compliance Evaluation Findings

1. "This facility did not place its used oil in a proper container, in violation of 40 CFR 279.22(a)."

The oil-stained gravel from the contractor pipe-cutting operation was removed the same afternoon it was observed. To ensure that all contractors working at the facility are informed of the requirements for performing work in an environmentally-sound manner the safety and environmental manual has been updated to emphasize housekeeping practices. This manual must be read and signed by all contractors before they are allowed to work at the facility.

The absorbent used to clean up the spilled oil at the building 376 loading dock was also cleaned up that afternoon. Operators were instructed that the clean up is not complete until the absorbent is properly disposed.

2. "This facility does not maintain copies of all analytical results at its facility as required by Permit Condition I-K-2-iii. This violation is in reference to analytical results from the treatment of groundwater from the burning ground. Also, 40 CFR 264.73 and 262.11."

This finding is in reference to the Navy's groundwater treatment plant and appears to be a result of a miscommunication. AMPC requires waste profiles and analytical data before signing the manifest for the Navy's waste sludge shipments. AMPC maintains copies of the sludge analytical data in the files at ABL. In addition, copies of all analytical data are maintained at the groundwater treatment facility. These were onsite at the time of inspection at both the treatment plant and in the environmental files.

3. "This facility has not performed a waste analysis of all waste streams on an annual basis, as required by Permit Condition II-B-2, also, 40 CFR 264.13."

Condition II-B-2 is a QA/QC requirement to verify that the analyses that are performed meet the requirements of SW-846. This follows with Conditions B-3 and B-4 which also specify QA/QC requirements for sampling and analytical methods. AMPC does not interpret this condition to require annual waste analysis of all wastestreams nor have our compliance inspectors on numerous ABL inspections.

AMPC sampled waste streams for annual analysis on February 3 and 4, 2000. Copies of the analytical results are attached (Attachment 5).

The revised hazardous waste storage permit application, which was submitted to WVDEP with the Subpart X permit application on December 14, 1999, requests a change in the waste analysis requirements to allow the use of generator knowledge in characterizing our waste streams.